BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH 3501 Bay Berry Drive Walnut Creek, CA 94598 Pharmacist License No. RPH 21900 Respondent.	Case No. 3024 OAH No. **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 13, 2006, Complainant Virginia Herold, in her official capacity as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 3024 against Joseph Stralovich (Respondent) before the Board of Pharmacy.

2. On or about October 21, 1960, the Board of Pharmacy issued Pharmacist License No. RPH 21900 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2007, unless renewed.

3. On or about November 16, 2006, Fe M. Domingo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3024, a Statement to Respondent, a Notice of Defense, a Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record with the Board, which

was and is 3501 Bay Berry Drive, Walnut Creek, CA 94598. A copy of the Accusation, related documents, and Declaration of Service are attached as exhibit A, and incorporated by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. Subsequent to service of the Accusation, Respondent notified the Board by telephone that he did not intend to contest the Accusation, and would therefore not return the Notice of Defense. On or about November 28, 2006, Respondent signed and returned a written statement confirming this intention. A copy of the document signed by Respondent is attached hereto as exhibit B, and is incorporated herein by reference.

6. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, confirmed his lack of intention to do so in writing, and therefore waived his right to a hearing on the merits of Accusation No. 3024.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, including that in exhibits A and B, finds that the allegations in Accusation No. 3024 are true.

10. The total Board costs for investigation and enforcement of this matter are $5,796.25 as of December 13, 2006.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Joseph Stralovich has subjected his Pharmacist License No. RPH 21900 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License based upon the following violations alleged in the Accusation:

a. In violation of Business and Professions Code section 4301(f), Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he, while employed as a Pharmacist at Sav-on Pharmacy in Walnut Creek, CA: on at least three occasions took generic **Donnatal** without a valid prescription and without payment; created and/or entered into the database for Sav-on Pharmacy at least 81 new and 152 refill prescriptions in his own name and his wife's name, for controlled substances, dangerous drugs, and over-the-counter drugs, without prescriber authorization; and billed the false prescriptions to insurance;

b. In violation of Business and Professions Code section 4301(g), Respondent made and/or signed documents that falsely represented the existence or nonexistence of a state of facts, by the conduct described in paragraph 4(a), above;

c. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of section 4059 of the Code, Respondent, as described in paragraph 4(a), above, furnished the dangerous drug **Donnatal** without a valid prescription;

d. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of Health and Safety Code section 11150, Respondent, as described in paragraph 4(a), above, wrote or issued prescriptions without authority to do so;

e. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of Health and Safety Code section 11157, Respondent, as described in paragraph 4(a), above, wrote or issued false or fictitious prescriptions;

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f. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of Health and Safety Code section 11170, Respondent, as described in paragraph 4(a), above, wrote or issued prescriptions to himself;

g. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of section 4063 of the Code, Respondent, as described in paragraph 4(a), above, created refill prescriptions for dangerous drugs without authority to do so;

h. In violation of Business and Professions Code section 4301(j) and/or (o), by reference to or inclusive of Health and Safety Code section 11173, Respondent, as described in paragraph 4(a), above, procured or attempted to procure administration of or prescription(s) for controlled substances, by fraud, deceit, misrepresentation, subterfuge, or by the concealment of a material fact;

i. In violation of Business and Professions Code section 4301 Respondent, as described in paragraph 4(a), above, engaged in unprofessional conduct.

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ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 21900, heretofore issued to Respondent Joseph Stralovich, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined by statute.

This decision shall become effective on February 21, 2007.

It is so ORDERED on January 22, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Attachments:

Exhibit A: Accusation No.3024, Related Documents, and Declaration of Service
Exhibit B: Statement of Intention Not to Contest Accusation

Exhibit A

Accusation No. 3024,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH 3501 Bay Berry Drive Walnut Creek, CA 94598 Pharmacist License No. RPH 21900 Respondent.	Case No. 3024 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

2. On or about October 21, 1960, the Board of Pharmacy issued Pharmacist License No. RPH 21900 to Joseph Stralovich (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

. . .

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

. . .

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

. . .

"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

. . .

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"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

. . .

8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

9. Section 4063 of the Code provides, in pertinent part, that no prescription for a dangerous drug may be refilled except upon authorization of the prescriber.

10. Health and Safety Code section 11150 provides that no person other than a physician, dentist, podiatrist, veterinarian, naturopathic doctor (certain drugs or under protocol), pharmacist (per pilot project or under protocol), registered nurse (pilot project), nurse-midwife (under protocol), nurse practitioner (under protocol), physician assistant (under protocol), optometrist (certain drugs), or out-of-state prescriber, shall write or issue a prescription.

11. Health and Safety Code section 11157 provides that no person shall issue a prescription that is false or fictitious in any respect.

12. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

13. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

16. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

. . .

"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

17. **Halcion** is a brand name for **triazolam**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(31) and dangerous drug as designated by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

18. **Sonata** is a brand name for **zaleplon**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(31) and dangerous drug as designated by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

19. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and dangerous drug as designated by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

20. **Donnatal** is a brand name for a drug including ingredients **phenobarbital** and belladonna alkaloids; it is a dangerous drug as designated by Business and Professions Code section 4022, used to treat stomach, intestinal, and bowel disorders, including irritable bowel syndrome, acute (entero)colitis, and duodenal ulcers.

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FACTUAL BACKGROUND

21. Beginning in or about 1986 and lasting until in or about 2005, Respondent was employed as a Pharmacist by Sav-on Pharmacy. From on or about March 9, 1995 until on or about September 1, 2003, Respondent was the Pharmacist in Charge (PIC) at Sav-on Pharmacy # 7058 (PHY 40820) in Walnut Creek, CA, and he continued to be employed thereafter as a staff Pharmacist at Sav-on Pharmacy # 7058 into and for various unspecified dates in 2005.

22. On at least two occasions while he was employed at Sav-on Pharmacy # 7058, Respondent was observed by another employee placing tablets of generic **Donnatal** in his pocket without a valid prescription and without payment, and on another occasion Respondent was observed creating a false refill prescription for his wife for **Donnatal**, filling it, and taking the drugs home without payment. Respondent subsequently admitted to taking at least 6 doses of generic **Donnatal**, as well as an allergy medication and an antibiotic, all without payment.

23. While he was employed at Sav-on Pharmacy # 7058 and/or subsequent to that employment, on and/or between on or about February 1, 2001 and on or about November 20, 2005, Respondent created and/or entered into the database for Sav-on Pharmacy # 7058 new and refill prescriptions in his own name and his wife's name, for controlled substances, dangerous drugs, and over-the-counter (OTC) drugs, without prescriber authorization. Respondent created and/or entered at least 81 new prescriptions and 152 refill prescriptions which lacked prescriber authorization, including: 4 new controlled substance prescriptions, 26 new dangerous drug prescriptions, and 6 new OTC prescriptions in his own name; 5 controlled substance refill prescriptions, 51 dangerous drug refill prescriptions, and 13 OTC refill prescriptions, in his own name; 43 new dangerous drug prescriptions, and 2 new OTC prescriptions, in his wife's name; and 83 dangerous drug refill prescriptions, in his wife's name.

24. The prescriptions created by Respondent without prescriber authorization included, but were not limited to, the following specific examples:

a. On March 9, 2003 and November 2, 2003, Respondent created, in his own name, without prescriber authorization, 2 new prescriptions for 30 tablets of **Sonata**;

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b. On March 29, 2003, Respondent created, in his own name, without prescriber authorization, a new prescription for 20 tablets of **Halcion**;

c. On December 14, 2003, Respondent created, in his own name, without prescriber authorization, a new prescription for 30 tablets of **Ambien**;

d. On January 25, 2004, Respondent created, in his own name, without prescriber authorization, a refill prescription for 30 tablets of **Ambien**;

e. On May 4, 2003, June 1, 2003, and June 29, 2003, Respondent created, in his own name, without prescriber authorization, 3 refills for 20 tablets of **Halcion**;

f. On February 8, 2004, Respondent created, in his own name, without prescriber authorization, a refill prescription for 30 tablets of **Sonata**;

25. Respondent billed at least some of the false prescriptions to insurance.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

26. Respondent is subject to discipline under section 4301(f) of the Code in that Respondent, as described in paragraphs 22-25 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SECOND CAUSE FOR DISCIPLINE

(Making or Signing False Documents)

27. Respondent is subject to discipline under section 4301(g) of the Code in that Respondent, as described in paragraphs 22-25 above, made and/or signed documents that falsely represented the existence or nonexistence of a state of facts.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing of Dangerous Drug)

28. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of section 4059 of the Code, in that Respondent, as described in paragraph 22 above, furnished the dangerous drug **Donnatal** without a valid prescription.

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FOURTH CAUSE FOR DISCIPLINE

(Unlawful Writing or Issuance of Prescriptions)

29. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of Health and Safety Code section 11150, in that Respondent, as described in paragraphs 22-25 above, wrote or issued prescriptions without authority to do so.

FIFTH CAUSE FOR DISCIPLINE

(Writing or Issuance of False or Fictitious Prescriptions)

30. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of Health and Safety Code section 11157, in that Respondent, as described in paragraphs 22-25 above, wrote or issued false or fictitious prescriptions.

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Self-Prescribing)

31. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of Health and Safety Code section 11170, in that Respondent, as described in paragraphs 22-25 above, wrote or issued prescriptions to himself.

SEVENTH CAUSE FOR DISCIPLINE

(Unlawful Refill of Dangerous Drug Prescriptions)

32. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of section 4063 of the Code, in that Respondent, as described in paragraphs 22-25 above, created refills of dangerous drug prescriptions without authorization.

EIGHTH CAUSE FOR DISCIPLINE

(False or Fraudulent Procurement of Controlled Substance Prescriptions)

33. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, by reference to or inclusive of Health and Safety Code section 11173, subdivision (a), in that Respondent, as described in paragraphs 22-25 above, procured or attempted to procure administration of or prescription(s) for controlled substances, by fraud, deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

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NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

34. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent, by way of the conduct described in paragraphs 22-25 above, engaged in "unprofessional conduct" not becoming the profession of pharmacy.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacist License Number RPH 21900, issued to Joseph Stralovich (Respondent);

B. Ordering Respondent to pay the Board its reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 11/13/06

VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2006402687

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BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH Respondent.	Case No. 3024 **STATEMENT TO RESPONDENT** [Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board represented by Deputy Attorney General Joshua A. Room within fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to:

JOSHUA A. ROOM
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any objection to the form of the Accusation unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

If you file any Notice of Defense within the time permitted, a hearing will be held on the charges made in the Accusation.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, California 94612, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Board you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters charged and the discipline to be imposed. Such a stipulation would have to be approved by the Board of Pharmacy but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Joshua A. Room at the earliest opportunity.

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BILL LOCKYER, Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH Respondent.	Case No. 3024 **REQUEST FOR DISCOVERY** [Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:

a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or

omission of the Respondent as to this person is the basis for the administrative proceeding;

b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

d. All writings, including but not limited to reports of mental, physical and blood examinations and things which the Respondent now proposes to offer in evidence;

e. Any other writing or thing which is relevant and which would be admissible in evidence, including but not limited to, any patient or hospital records pertaining to the persons named in the pleading;

f. Investigative reports made by or on behalf of the Respondent pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this Request for Discovery, "statements" include written statements by the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's

work product.

Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 11/16/06

BILL LOCKYER, Attorney General
of the State of California

FRANK H. PACOE
Supervising Deputy Attorney General

JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

40116820.wpd

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH Respondent.	Case No. 3024 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOSEPH STRALOVICH Respondent.	Case No. 3024 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40116820.wpd

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7 PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

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7160 3901 9849 2870 8716

TO: JOSEPH STRALOVICH
3501 Bay Berry Drive
Walnut Creek, CA 94598

SENDER: JAR

REFERENCE: Acc Pkt

PS Form 3800, January 2005

RETURN RECEIPT SERVICE		
	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Exhibit B

Statement of Intention Not to Contest Accusation

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

November 27, 2006

Joseph Stralovich
3501 Bay Berry Drive
Walnut Creek, CA 94598

RE: RESPONSE TO ACCUSATION
In the Matter of the Accusation Against:
JOSEPH STRALOVICH
Board of Pharmacy Case No. 3024

Dear Mr. Stralovich:

I represent the Interim Executive Officer for the California Board of Pharmacy (Virginia Herold) with regard to the Accusation recently filed and served and now pending against your license. I understand that you left a message with the Board stating you do not intend to contest the Accusation, and are no longer planning to practice pharmacy.

Please confirm that intention by signing the bottom of this letter and returning the signed copy to me in the enclosed return envelope. Please feel free to contact me with any questions.

Sincerely,

JOSHUA A. ROOM
Deputy Attorney General

For BILL LOCKYER
Attorney General

JAR:wg
Enclosure: Metered return envelope
40118162.wpd

I, Joseph Stralovich, hereby waive my right to hearing in the above matter. I understand the Board of Pharmacy shall decide whether to proceed with the hearing as a default, withdraw the matter, or issue a default decision and order. I acknowledge the outcome of this proceeding or default decision may be discipline up to and including license revocation. I have either consulted with legal counsel or, having been made aware of my right to do so, declined to consult with counsel. This withdrawal and waiver is made knowingly, intelligently, and voluntarily.

Joseph Stralovich

11/28/06
Date